

House Bill 1431

By: Representative Lunsford of the 110th

A BILL TO BE ENTITLED

AN ACT

To amend Article 2 of Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to public defenders, so as to provide for the responsibilities of city, county, and consolidated governments to appropriate funds; to provide for penalties where a public defender fails to provide representation; to change certain provisions relating to public defenders; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to public defenders, is amended by striking Code Section 17-12-23, relating to cases in which public defender representation is required, in its entirety and inserting a new Code Section 17-12-23 to read as follows:

"17-12-23.

(a) The circuit public defender shall provide representation in the following actions and proceedings:

(1) Any case prosecuted in a superior court under the laws of the State of Georgia in which there is a possibility that a sentence of imprisonment or probation or a suspended sentence of imprisonment may be adjudged;

(2) A hearing on a revocation of probation in a superior court;

(3) Any juvenile court case where the juvenile may face a disposition of confinement, commitment, or probation; and

(4) Any direct appeal of any of the proceedings enumerated in paragraphs (1) through (3) of this subsection.

(b) In each of the actions and proceedings enumerated in subsection (a) of this Code section, entitlement to the services of counsel begins as soon as is feasible and no more

1 than 72 hours after the indigent person is taken into custody or service is made upon him
2 or her of the charge, petition, notice, or other initiating process.

3 (c) Each circuit public defender shall establish a juvenile division within the circuit public
4 defender office to specialize in the defense of juveniles.

5 (d) A city, county, or consolidated government may contract with the circuit public
6 defender office for the provision of criminal defense for indigent persons accused of
7 violating city, county, or consolidated government ordinances ~~or state laws~~ and prosecuted
8 in courts organized and established pursuant to the city, county, or consolidated
9 government's authority. If a city, county, or consolidated government does not contract
10 with the circuit public defender office, the city, county, or consolidated government shall
11 be subject to all applicable standards adopted by the council for representation of indigent
12 persons in ~~this state~~ those courts. This Code section shall not authorize any court to
13 appoint another attorney or attorneys as an alternative to the representation otherwise
14 required of the circuit public defender; nor shall it authorize any court to require a city,
15 county, or consolidated government to appropriate additional funds to the circuit public
16 defender for additional personnel to fulfill the duties required of that office.

17 (e) A circuit public defender's refusal to assume representation of an indigent defendant,
18 by himself or herself or his or her assistants as required by this article, shall, by operation
19 of law, cause the office of circuit public defender to be vacated. Said vacancy shall be
20 filled as provided in Code Section 17-12-20."

21 SECTION 2.

22 Said article is further amended by striking subsection (a) of Code Section 17-12-26, relating
23 to the budget of the Indigent Defense Council, and inserting a new subsection (a) to read as
24 follows:

25 "(a) The council shall prepare and submit to the Judicial Council of Georgia an annual
26 proposed budget necessary for fulfilling the purposes of this article in accordance with
27 Code Section 45-12-78. The budget request shall be based on the previous year's
28 expenditures and budget requests submitted by each circuit public defender, the
29 ~~multicounty public defender office or its successor,~~ Office of the Georgia Capital Defender,
30 and the office of the mental health advocate and shall also take into account any funds
31 appropriated by city, county, or consolidated governments. The council's total budget
32 request for funding for the operations of the circuit public defender offices and the
33 council's programs shall not exceed the amount of funds collected for indigent defense
34 pursuant to Code Sections 15-21-73 and 15-21A-6. For fiscal years beginning prior to July
35 1, 2006, such funds collected for indigent defense may be estimated by the council based

1 on actual monthly collections received prior to the council's budget request submission.
2 The council is also authorized to seek, solicit, apply for, and utilize funds from any public
3 or private source to use in fulfilling the purposes of this article. No city, county, or
4 consolidated government shall be required to appropriate funds within its budget to meet
5 a request for additional personnel or salary supplements from the council, circuit public
6 defender, or capital defender representing indigent defendants within such government's
7 jurisdiction."

8 **SECTION 3.**

9 This Act shall become effective on July 1, 2006.

10 **SECTION 4.**

11 All laws and parts of laws in conflict with this Act are repealed.